

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

BARRY COLBY,
Petitioner,

V.

DAVID WINN, WARDEN, ET AL.,
Respondents

C.A. No. 05-40124-NG

MEMORANDUM AND ORDER

GERTNER, D.J.

On August 5, 2005, Petitioner Barry Colby, a prisoner at FMC Devens in Ayer, MA, filed his self-prepared petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. Petitioner contended that a probation violation warrant and detainer issued by the Lincoln County Superior Court in Wiscasset, Maine prevented him from being considered by the Bureau of Prisons for release to a halfway house in Maine.

On August 26, 2005, this Court directed that the Respondent file a response to the petition. Memorandum and Order (#4). Since that time, counsel for the Respondent orally reported to the Court that steps had been taken which resulted in the removal of the detainer, and that the Bureau of Prisons has in fact released the Petitioner to the halfway house in Maine, as he requested. On October 17, 2005, the Respondent filed a Motion to Dismiss (#5) on various grounds, including, *inter alia*, failure to exhaust administrative remedies, and mootness.

In light of these developments, it now appears this habeas petition is moot in view of the fact that Petitioner has received the relief he sought. Accordingly, the Respondent's Motion to

Dismiss is Allowed on grounds of mootness, and this action is hereby ORDERED dismissed, without prejudice. Should Petitioner seek reconsideration of the dismissal of this action, he shall file a motion to reopen this action upon good cause shown, and shall file a response to the Respondent's Motion to Dismiss with respect to the other grounds asserted for dismissal. SO ORDERED.

/s/ Nancy Gertner
NANCY GERTNER
UNITED STATES DISTRICT JUDGE

DATED: October 21, 2005